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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,419	09/26/2005	John Mueller	07420.06543	4438
24382	7590	03/13/2008		
JOSEPH S. HEINO, ESQ. DAVIS & KUELTHAU, S.C. 111 E. KILBOURN SUITE 1400 MILWAUKEE, WI 53202-6613			EXAMINER NGUYEN, DINH Q	
			ART UNIT 3752	PAPER NUMBER
			MAIL DATE 03/13/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

10/511,419

## Applicant(s)

MUELLER ET AL.

## Examiner

Dinh Q. Nguyen

## Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,8-13,15 and 18-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,8-13,15 and 18-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/06)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Applicant's request for review filed on October 15, 2007 of the finality of the rejection of the last Office Action dated May 08, 2007 is persuasive and, therefore, the finality of that action is withdrawn.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitation "the toggle valve being operable to direct flow between a clean water flow channel and a chemical dispensing flow channel" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Figure 6 does not clearly shown the operational features of the toggle valve 124 between dispensing clean water channel 142 and chemical flow channel 141, how the aperture 125 connecting the water channel 121 to either the clean water channel 142 and chemical flow channel 141?

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering

of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1, 2, 4, 8-13, 15, 18-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The disclosure is not clearly shown the operational features of the toggle valve 124 in particular the limitation "the toggle valve being operable to direct flow between a clean water flow channel and a chemical dispensing flow channel". The term toggle valve is not clearly understood in view of the operational features of the spray nozzle.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 2, 4, 8-13, 15, 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaufman in view of Futo et al. as best understood by the Examiner.

Kaufman discloses cleaning spray nozzle which comprising: a nozzle body including an inlet 12 for receiving water; a trigger valve 20/22 operable to infinitely vary the flow of water through the water flow continuum from a fully open continuum to a fully closed continuum; a toggle valve 28 downstream of the trigger valve 26, the toggle valve 48 being operable to direct flow between a clean water flow channel 26 and a chemical dispensing flow channel 53, the toggle valve 48 and a water flow continuum between the inlet 47 and the outlet 53 and a cartridge 62 releasably secured to a portion of the nozzle body, the cartridge containing a chemical therewithin, the cartridge having an outlet 58 that permits the flow of the chemical into the chemical dispensing\_flow channel 53, and an adjustment device 68 for controlling the amount of the chemical to be dispensed. Kaufman does not teach an outlet for discharging, either clean water from the clean water flow channel or clear water and a chemical from the chemical dispensing flow channel downstream. However, Futo et al. teaches an outlet 30 for discharging, either clean water from the clean water flow channel or clear water and a chemical from the chemical dispensing flow channel downstream. Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Kaufman with an outlet for discharging either clean water or clear water and a chemical as suggested by Futo et al. Doing so would provide a compact spray nozzle.

With respect to claims 9 and 20, it is obvious to one skilled in the art to have provided the device of Kaufman with a translucent cartridge so as to provide a way to monitor the content of the cartridge.

***Response to Arguments***

7. Applicant's arguments filed October 15, 2007 have been fully considered but they are not persuasive. The Kaufman reference and the \*Futo et al. reference are *known work in one of field of endeavor*, (b) such modification is merely the use of known technique to improve a similar device by Futo et al. and (c) such modification, i.e. choosing from a finite number of predictable solutions, is not of innovation but of ordinary skill and common sense. *KSR, International Co. v. Teleflex Inc., 550 U.S. (2007)*.

8. Applicant's arguments with respect to claims 1, 2, 4, 8-13, 15, 18-21 have been considered but are moot in view of the new ground(s) of rejection.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinh Q. Nguyen whose telephone number is 571-272-4907. The examiner can normally be reached on Monday-Thursday 6:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dinh Q Nguyen/  
Primary Examiner, Art Unit 3752

dqn